

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**RICKY FITZGERALD HATHORN, # L-1961**

**PLAINTIFF**

**VERSUS**

**CAUSE NO. 4:11cv129-CWR-FKB**

**NESHOPA COUNTY JAILHOUSE and  
JIMMY REED**

**DEFENDANTS**

**MEMORANDUM OPINION AND ORDER DISMISSING JAIL**

BEFORE THE COURT is *pro se* Plaintiff Ricky Fitzgerald Hathorn's [1] Complaint. He is in the custody of the Neshoba County Jail. He brings this action challenging conditions of his confinement against Defendants Neshoba County Jailhouse and Jimmy Reed, the jail's administrator. The Court has considered and liberally construed the pleadings.

The jail's capacity to be sued is determined by Mississippi law. Fed. R. Civ. P. 17(b)(3). In Mississippi, a county jail is not a separate legal entity which may be sued, rather it is an extension of the county. *Tuesno v. Jackson*, No. 5:08cv302-DCB-JMR, 2009 U.S. Dist. LEXIS 61416 at \*2-3 (S.D. Miss. Apr. 30, 2009). *See also, Brown v. Thompson*, 927 So. 2d 733, 737 (¶12) (Miss. 2006) (sheriff's department). Therefore, the jail is dismissed.

**IT IS THEREFORE ORDERED AND ADJUDGED** that, for the reasons stated above, Defendant Neshoba County Jailhouse should be and is hereby **DISMISSED WITHOUT PREJUDICE**. The case will proceed against the remaining defendant.

**SO ORDERED**, this the 2<sup>nd</sup> day of December, 2011.

s/Carlton W. Reeves  
UNITED STATES DISTRICT JUDGE